

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Case No: 02-2252

WITCO CORPORATION,
Appellant

v.

HERZOG BROTHERS TRUCKING, INC.,

v.

NATIONAL CITY BANK,
Garnishee

On Appeal from the United States District Court
for the Western District of Pennsylvania
District Court No.: Misc. No. 96-75 Erie
District Judge: The Honorable Sean J. McLaughlin

Argued January 10, 2003

Before: SCIRICA, *Chief Judge*, BARRY and SMITH, *Circuit Judges*

JUDGMENT

This cause came to be heard on the record from the United States District Court for the Western District of Pennsylvania and was argued on January 10, 2003. On consideration thereof, it is now ORDERED and ADJUDGED that the judgment of the District Court granting National City Bank's motion for summary judgment on April 3, 2002, be and same hereby is VACATED, and the matter is REMANDED for further proceedings. All in accordance with the opinion of this Court. Costs taxed against the

Appellee-Garnishee.

ATTEST:

Clerk

Dated: June 10, 2005

Certified as a true copy and issued in lieu
of a formal mandate on July 19, 2005

Teste:



Clerk, U.S. Court of Appeals for the Third Circuit.